

GENERAL INFORMATION

Applicant: Minnesota Medical Solutions, LLC (Vireo Health)

Location: 5200 W 84th Street

Request: CUP for Medical Marijuana Distribution Facility

Existing Land Use and Zoning: Neighborhood Shopping Center; zoned B-4
Neighborhood Commercial

Surrounding Land Use and Zoning: North – Health club; zoned B-4
South – Single family residential and stormwater pond;
zoned R-1 and SC
East – Multiple-family dwelling; zoned RM-24
West – Office and Financial Institution; zoned B-4

Comprehensive Plan Designation: General Business

HISTORY

City Council Action: 01/26/2015 – Approved Ordinance 2015-06, imposing a one-year moratorium on medical cannabis distribution facilities to complete planning study.

10/19/2015 -- Approved Ordinance 2015-27, creating a definition and standards for medical marijuana distribution facilities and establishing them as conditional uses in multiple zoning districts.

CHRONOLOGY

Planning Commission Action: 04/21/2016 Recommended approval (Vote: 7-0)

City Council Agenda: 05/02/2016

DEADLINE FOR AGENCY ACTION

Application Date: 03/16/2016

60 Days: 05/15/2016

120 Days: 07/14/2016

Applicable Deadline: 05/15/2016

STAFF CONTACT

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PROPOSAL

Minnesota Medical Solutions, LLC (Vireo Health) is requesting a Conditional Use Permit (CUP) to establish a medical marijuana distribution facility at Normandale Center, a shopping center located at 5200 West 84th Street. The applicant is one of two licensed medical cannabis manufacturers in the State of Minnesota. As such, the applicant is required to operate one medical marijuana distribution facility within four of the State's eight congressional districts. Minnesota Medical Solutions currently has two distribution facilities operating in Minnesota, one in Minneapolis and one in Rochester, and is opening a third facility in Moorhead, Minnesota. To comply with the State's deadline of opening all distribution facilities by July 1, 2016, the applicant is proposing to open a fourth distribution facility in Bloomington to serve as the one facility required within Minnesota's 3rd Congressional District. As medical marijuana distribution facilities are conditional uses in the B-4 zoning district, Minnesota Medical Solutions is requesting a CUP to occupy retail space within the Normandale Center shopping center. It should be noted the City Council is the decision making authority on Conditional Use Permits for medical marijuana distribution facilities.

BACKGROUND

The Medical Cannabis Therapeutic Research Act was adopted in 2014, allowing for the limited distribution and use of medical marijuana. Under the originally adopted statute, certified health care practitioners may certify patients who are diagnosed with one of nine qualifying medical conditions to be eligible to enroll in the State's medical marijuana registry. It should be noted intractable pain has been added as a qualifying condition. Once diagnosed, certified and enrolled in the State's registry, a patient may legally procure medical cannabis from a registered and licensed medical marijuana facility. Under State Law, medical cannabis is defined as any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins, and is delivered in the form of:

- 1) liquid, including, but not limited to, oil, can only be in capsule and oil form;
- 2) pill;
- 3) vaporized delivery methods with use of liquid or oil but which does not require the use of dried leaves or plant form; or
- 4) any other method, excluding smoking, approved by the commissioner.

In addition, State Law requires all employees distributing medical cannabis to be licensed pharmacists. Use of medical cannabis is not permitted in any public place, including outdoor areas open to the public or a place of employment.

To respond to the legalization of medical cannabis in 2014, the City of Bloomington initially adopted a moratorium on medical marijuana manufacturing or distribution facilities in order for the City to research the adoption of licensing, zoning and other performance standards in the City Code. The City researched local and national standards, worked with the City's Public Health, Police, Planning, and Licensing Departments to develop standards, and held multiple public meetings. In October of 2015, the City adopted Ordinance 2015-27, specifying licensing, zoning and performance standards for medical marijuana facilities. It should be noted the City's ordinance complements the requirements and standards adopted in the State Statute.

The Planning Commission held a public hearing on April 21, 2016 to consider the applicant's Conditional Use Permit request. In addition to one written public comment received, two members of the public spoke at the hearing. A summary of the testimony received at the public hearing can be found in the draft planning commission minutes, which are attached for Council consideration. Finally, it should be noted that the applicant has submitted an updated floor plan to provide improved layout and egress. The original and updated floor plans are attached for consideration.

ANALYSIS

Section 21.302.22 provides detail standards to ensure public health and safety when locating a medical marijuana distribution facility in the City of Bloomington. As shown in Table 1, the applicant meets the requirements.

TABLE 1: Medical Marijuana Distribution Facility Performance Standards

| Standard | In Compliance? |
|--|--|
| Distribution facilities must not distribute any other product or substance except for medical marijuana. | Yes as described in the project description. |
| No cultivation, harvesting, manufacturing, packaging, processing, or sampling of medical marijuana or any other substance may occur on the distribution facility site. | Yes as described in the project description. The applicants operate a manufacturing facility in Otsego, MN. |
| Not allowed within 1,000 feet of an existing K-12 school. | The property is over 1,000 feet from Popular Bridge School (8401 Palmer Ave. S.), which is the closest school to the subject property. |
| No greater than one facility per 100,000 residents or fraction thereof. | Yes – the proposed medical marijuana distribution facility would be the only one permitted in Bloomington. |

| Standard | In Compliance? |
|--|--|
| Distribution facilities must be equipped with an electronic controlled access. | Yes as described in the project description and shown on the floor plan. |
| Distribution facilities must be located in a highly visible building and visible from the public right-of-way. | Yes – site is highly visible and visible from W. 84 th Street |
| Must provide minimum lighting for security. | Yes – property complies with City Code Section 21.301.07 |
| Signs must not include images of cannabis. | Yes as required by Section 21.302.22 |
| Facility must be licensed. | Licensing application has been submitted to the City Clerk. A public hearing is scheduled for 5/02/2016 at City Council. |

Per Section 21.302.22 of the City Code, the applicant is also responsible to provide operating documents as part of the CUP application. The operating documents must broadly address the following: i) security measures, ii) disposal methods of waste, iii) response plans to security breach, iv) product delivery plan, and v) other information required by Issuing Authority.

To fulfill this requirement, the applicant has specifically addressed these items within the project description. Security is provided through the use of 24-hour remote video monitoring/surveillance. In addition, a security vestibule with electronic locks limits access to the facility to registered patients or care-givers only. Waste generated from the facility is disposed of at the Otsego manufacturing facility. In the instance of a security breach, alarm and burglary systems trigger an immediate emergency response from local police. Minnesota Medial Solutions has offered to provide full access to all security cameras to the Bloomington Police Department. Finally, product delivery is conducted according to Minnesota Department of Health regulations.

Traffic, Access, Circulation, and Parking:

The applicant proposes no exterior changes, other than signage, as part of this application. The City Code requirement for retail uses less than 10,000 square feet is one space per 185 square feet whereas parking for a medical marijuana facility is one space per 285 square feet. Parking will be in full compliance.

No significant impacts to the adjacent traffic patterns have been identified. Due to the restricted access to the services provided by Minnesota Medical Solutions, the use is anticipated to generate less traffic and parking than a typical retail use.

Fire Prevention and Public Safety

A primary concern is the security of the facility. The final security door and access plan must be reviewed by the Fire Marshall and the Bloomington Police Department prior to the issuance of the Certificate of Occupancy. Any modification of the approved plan is not allowed without a full review and approval.

Status of Enforcement Orders

There are no open enforcement orders for this property.

FINDINGS

Section 21.501.04(e)(1-5) - Conditional Use Permits

- (1) The proposed use/development is not in conflict with the Comprehensive Plan;**
 - The subject property is guided General Business by the Comprehensive Plan. Medical marijuana distribution facilities on a parcel guided as General Business are not in conflict with the guidance of the Comprehensive Plan.
- (2) The proposed use is not in conflict with any adopted District Plan for the area;**
 - The property is located within the Normandale Lake District. The proposed use within an existing shopping center does not conflict with the Normandale Lake District Plan.
- (3) The proposed use is not in conflict with City Code provisions;**
 - Subject to compliance with the conditions of approval, the proposed use meets all City Code requirements.
- (4) The proposed use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development; and**
 - The proposed use is not of a nature, scale, or intensity to create an excessive burden on parks, schools, or other public facilities and utilities. A medical marijuana distribution facility within an existing shopping center should not increase traffic demand sufficient to have a noticeable impact on adjacent streets.

(5) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.

- The proposed use would be located at a highly visible site that is also visible from the public right-of-way. The applicant must provide substantial security measures in order to comply with the City's zoning and licensing requirements. The site is located more than 1000 feet from any existing schools (K-12). The proposed use will operate like a small pharmacy within a retail shopping center, and will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.

RECOMMENDATION

The Planning Commission and staff recommend approval through the following motion:

In Case PL2016-39, having been able to make the required findings, I move to adopt a resolution approving a Conditional Use Permit for a medical marijuana distribution facility located at 5200 West 84th Street, subject to the conditions and Code requirements attached to the staff report.

RECOMMENDED CONDITIONS OF APPROVAL

Case PL201600039

Project Description: Conditional use permit for a medical marijuana distribution facility in an existing retail shopping center

Address: 5200 W 84TH ST

The following conditions of approval are arranged according to when they must be satisfied. In addition to conditions of approval, the use and improvements must also comply with all applicable local, state, and federal codes. Codes to which the applicant should pay particular attention are included below.

1. Prior to Permit A building permit for all required changes to accommodate the proposed use be obtained.
2. Prior to Permit Sewer Availability Charges (SAC) must be determined and satisfied.
3. Prior to C/O Prior to occupancy, life safety requirements must be reviewed and approved by the Fire Marshal and Bloomington Police Department.
4. Ongoing The proposed use and building improvement are limited to those as shown on the approved plans in Case File #PL201600039.
5. Ongoing Signs must be in conformance with the requirements of Chapter 19, Article X of the City Code, the approved Uniform Sign Design Plan, and Section 21.302.22 of the City Code.
6. Ongoing Development must comply with the Minnesota State Accessibility Code (Chapter 1341).
7. Ongoing All trash and recyclable materials must be stored inside the principal building (Sec. 19.51).